

REMARKS

Claim 12 has been amended. Claims 12-16 are still pending in the present application. Entry of the amendments, and reexamination and allowance of the pending claims are respectfully requested.

Claims 12-16 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of USP 6,698,441 in view of USP 3,408,071 to Lundy. Even though Applicant does not agree with this rejection, Applicant is submitting a Terminal Disclaimer to overcome this rejection.

Claims 12-13 stand rejected under 35 USC 102(e) as being anticipated by USP 5,137,044 to Brady. Claims 12-13 and 15-16 stand rejected under 35 USC 102(e) as being anticipated by USP 5,439,018 to Tsai. These rejections are respectfully traversed.

Claim 12 has been amended to recite that the second panel extends at an angle from a horizontal surface, with the first panel extending vertically from the horizontal surface, when the structure is deployed during use. This is clearly shown in FIG. 1 of the present application.

In contrast, the structures in Brady and Tsai cannot assume the recited orientations (i.e., the second panel extends at an angle from a horizontal surface, with the first panel extending vertically from the horizontal surface), when the respective structure is deployed during use.

For example, if the panel R in Brady is oriented in a vertical manner (as suggested by the Examiner), the entire structure would be inoperable. In particular, even if the stakes 56 were adjusted to maintain the panel R vertical and the panel S elevated above the ground in an angled orientation, the structure would collapse (or revert to the orientation shown in FIG. 2) as soon as an occupant enters the interior of the structure.

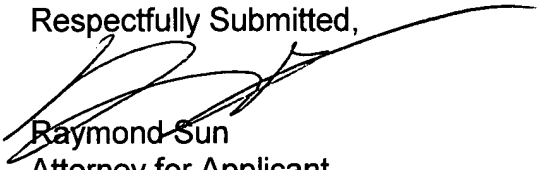
Similarly, if one of the panels in Tsai is oriented in a vertical manner (as suggested by the Examiner), the entire structure would be inoperable. In particular, even if stakes were provided to maintain one panel at a vertical position and the other panel elevated above the ground in an angled orientation, the structure would collapse (or revert to the orientation shown in FIG. 1) as soon as an occupant enters the interior of the structure. Tsai specifically discloses a pyramidal structure (which does not have any vertical panels when deployed for use) having triangular side pieces 11 and 13.

The Examiner has asserted that the structures in Brady and Tsai are capable of assuming the recited orientations. However, the structures in Brady and Tsai are not capable of assuming these orientations when they deployed during use. Applicant

respectfully submits that any attempt to interpret Brady and/or Tsai to assume the recited orientations is based on impermissible hindsight reconstruction. Indeed, there is no teaching or suggestion (directly or indirectly) in either Brady or Tsai that either of their structures can or should be oriented in the manner proposed by the Examiner.

In light of the above, allowance of all pending claims is respectfully requested. The Examiner is invited to telephone the undersigned if there are any informal matters that can be resolved in a phone conversation, or if the Examiner has any suggestions or ideas that would further advance the prosecution of this case.

Respectfully Submitted,



Raymond Sun
Attorney for Applicant
12420 Woodhall Way
Tustin, CA 92782
Tel: 949-252-9180

Dated: December 3, 2004

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal service as First Class Mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Date: December 3, 2004
Raymond Sun

By: 